



Proposed Regulation Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC85-40-10 et seq.
Regulation title	Regulations Governing the Practice of Respiratory Care
Action title	Acceptance of AMA category 1 continuing education
Document preparation date	10/19/04

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The Board is responding to a petition for rule-making from a licensee by amending 18VA85-40-10 et seq., Regulations Governing the Practice of Respiratory Care in order to recognize courses directly related to the practice of respiratory care that are approved by the American Medical Association for Category 1 CME credit.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...*

The Board of Medicine has a specific statutory mandate to promulgate regulations to ensure practitioner competence with requirements such as continuing education.

§ 54.1-2912.1. Continued competency requirements.

- A. The Board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, and/or any other requirement.*
- B. In promulgating such regulations, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.*
- C. The Board may approve persons who provide or accredit such programs in order to accomplish the purposes of this section.*

In addition, the Board is also authorized by § 54.1-103 to specify additional training for licensees seeking renewal of licenses.

§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement.

- A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.*

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The Board of Medicine is responding to a petition for rule-making from a respiratory care practitioner requesting regulations be amended to accept Category 1 CME approved by the American Medical Association to meet the required hours for renewal of licensure as a respiratory care practitioner. The goal is to expand the approved CE courses available for this profession to include those directed to the practice of respiratory care and offered by another recognized provider.

As the scope of practice for respiratory care practitioners expands beyond its traditional therapies, it is logical to expand the subject matter and availability of courses in continuing education to prepare licensees to assume increasing responsibilities for patient care. Respiratory care practitioners are seeking legislative authority to expand their authority to administer all schedules of medication by any route. In addition, hospital-based respiratory care already involves practice well beyond the traditional inhalation therapy. Respiratory care practitioners may be better prepared to practice in a manner that protects the health and safety of patients if they can use courses offered for continuing medical education for CE credit.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The proposed action is to amend 18VAC85-40-66, Continuing education requirements, to accept courses directly related to the practice of respiratory care as approved by the American Medical Association for Category 1 CME credit to meet the 20-hour per biennium CE requirement for renewal of a license as a respiratory care practitioner.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

Advantages and disadvantages to the public:

There are no disadvantages to the public. The public may be better served by allowing greater opportunity for continuing education, improving flexibility for practitioners in obtaining courses pertinent to their practice and expanding the knowledge basis and resources available through the American Medical Association.

Advantages and disadvantages to the agency or the Commonwealth:

There are no advantages or disadvantages to the agency; the amended regulation does not impose a new responsibility on the Board and does not involve additional cost or staff time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists and conducting a public hearing. Every effort will be made to incorporate those into anticipated mailings and meetings already scheduled; there will be no on-going expenditures because continuing education is already a requirement for renewal of licensure.</p>
<p>Projected cost of the regulation on localities</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The entities that are likely to be affected by these regulations would be respiratory care practitioners who have access to AMA-approved Category 1 CME.</p>
<p>Agency’s best estimate of the number of such entities that will be affected</p>	<p>There are 3183 persons who hold a license as a respiratory care practitioner.</p>
<p>Projected cost of the regulation for affected individuals, businesses, or other entities</p>	<p>Offering an alternative CE provider may reduce the cost of meeting the requirement for some respiratory care practitioners, since many licensees practice in hospitals and other health care institutions where AMA category 1 CME is readily available at little or no cost to employees.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The Board is responding to a petition for rule-making from a respiratory care practitioner; the petition was supported by letters from 24 other practitioners who want to be able to avail themselves of CE offerings that have Category 1 CME credits. The petitioner provided public comment to the Advisory Board on Respiratory Care at its meeting on May 19, 2004 to explain the need for amending the regulations.

At the Advisory Board meeting, there was concern expressed about the validity and relevance of courses approved by the American Medical Association. Under current regulations, the only body that can approve continuing education for respiratory care is the American Association for Respiratory Care (AARC). Since CE is a new requirement for respiratory care practitioners, there was some sentiment for maintaining a sole approval source to ensure that courses would have an acceptable level of quality and applicability to the practice.

It was discussed with the advisory board that other professions, such as dentistry, nursing and pharmacy, accept category 1 CME credits from the AMA, so there is precedence for such recognition. In addition, regulations can specify that the CME courses must be directly related to the practice of respiratory care. With that specificity, the proposed amendment was adopted by the full Board of Medicine at its meeting on October 14, 2004.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

This regulatory action is taken in response to a petition for rule-making from a licensed respiratory care practitioner, who was supported by approximately 25 other licensees who agreed with the petitioner’s request. Although there was no comment on the Notice of Intended Regulatory Action, the Board considered the comment that followed the initial petition as comment on the issue.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact of the proposed regulatory action on the institution of the family and family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
66	n/a	The current regulation requires a respiratory care practitioner to complete 20 hours of continuing education as	The amended regulation would also recognize courses directly related to the practice of respiratory care as approved by the

		approved and documented by a sponsor recognized by the AARC	American Medical Association for Category 1 CME credit.
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